IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.820 OF 2005

Shri Shivaji Bhaurao Shinde .. Appellant

Versus

Bhaurao Kisan Shinde (deceased)
through LRs and Ors. .. Respondents

Mr.M.V.Sali with A.R.Kapadnis for appellant

CORAM : P.V.KAKADE, J.

DATE : 22ND AUGUST, 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by Addl. District Judge, Nasik dated 30.4.2005 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Nasik dated 19.4.2003 dismissing the suit filed by the plaintiff.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit for partition and declaration that he had his share in the property and

therefore, also prayed for possession of his share. The suit was field against the father and brother in respect of the suit property alleged to be ancestral property. The defendants contested the suit on various grounds, inter alia, submitting that the partitions were already effected by family arrangements executed on 15.6.1982 and on such and other grounds the suit was sought to be dismissed.

. The learned trial judge adjudicated the dispute on merits and on the basis of available evidence came to the conclusion that the plaintiff had not proved that the property was still ancestral joint family property. On the other hand it was established that the family arrangements dated 15.6.1982 were proved and as such the plaintiff' suit on the ground that the property was ancestral joint family property and other grounds came to be dismissed. The appeal was carried to the District Court. The learned Addl.District Judge after hearing both the parties and on the basis of available evidence came to the conclusion that the reasoning adopted and findings recorded by the trial court were legal and proper and dismissed the appeal. Hence the present appeal.

4. At the outset, it must be noted that there is absolutely no substantial question of law involved in this appeal. On the other hand the document of 15.6.1982 is proved on record, which is evidently a document of family arrangements and though, it is not registered document, the circumstances brought on record do show that the family arrangements were acted upon and since long the parties are separate. Both the courts below have concurrently recorded the findings to the effect that the plaintiff has failed to prove the legal status of the property to be joint family property and it is also held that the written family arrangements dated 15.6.1982 are proved and are seen to be acted upon and as such the suit for partition and separate possession of plaintiff’s share is not tenable. The concurrent findings recorded by both the courts below are the finding of facts and there is absolutely no substantial question of law involved or raised at any stage and as such I find no merit in the appeal and the appeal stands dismissed.

. Consequently Civil Application No.1364 of 2005 also stands dismissed.